

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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DARRIN COATS,

Petitioner,

v.

Case No. 07-CV-12043

CINDI CURTIN,

Respondent.

/

DARRIN COATS,

Petitioner,

v.

Case No. 07-CV-13725

CINDI CURTIN,

Respondent.

/

**OPINION AND ORDER OF CONSOLIDATION AND DISMISSAL**

**I. BACKGROUND**

This matter is before the court on Petitioner Darrin Coats's *pro se* request for Writ of Habeas Corpus, pursuant to 28 U.S.C. §2254. Petitioner, a state prisoner confined at Oaks Correctional Facility in Manistee, Michigan, challenges his May 29, 1998 first-degree murder and felony-firearm convictions following a jury trial in Wayne County.

Petitioner filed a habeas petition on April 17, 2007, under case number 07-CV-11698, which was assigned to this court. The case was dismissed without prejudice for Petitioner's failure to cure a deficiency with his habeas filing, and the case was closed on

May 22, 2007. Petitioner then re-filed his habeas petition under case number 07-CV-12043, challenging the same conviction and raising the same three issues. Petitioner's second habeas case was assigned initially to Judge Denise Page Hood. This case remains pending. Petitioner subsequently filed a third habeas petition, under case number 07-CV-13725 and assigned initially to Judge Paul Gadola, challenging the same conviction and raising two of the same issues, with the third issue involving equitable tolling and newly discovered evidence. The latter two cases were reassigned to the this court as companions to Petitioner's first habeas petition.

## **II. DISCUSSION**

Federal Rule of Civil Procedure 42(a) provides as follows:

(a) **Consolidation.** When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

Fed. R. Civ. P. 42(a). It is within the discretion of the district court to determine whether cases involving the same factual and legal questions should be consolidated. *Stemler v. Burke*, 344 F.2d 393, 396 (6th Cir. 1965).

In the instant case, Petitioner is challenging the same 1998 conviction and is raising similar issues in both pending cases. Because the two cases involve common questions of fact and law, the court will consolidate the two cases pursuant to Federal Rule of Civil Procedure 42(a).

### III. CONCLUSION

IT IS ORDERED that case numbers 07-CV-12043 and 07-CV-13725 are hereby CONSOLIDATED. The Clerk of Court shall docket a copy of this order in both cases. The Clerk also shall scan all of the documents from case number 07-CV-13725 and docket these items in case number 07-CV-12043. All future documents shall be filed under case number 07-CV-12043.

IT IS FURTHER ORDERED that case number 07-CV-13725 is DISMISSED for statistical purposes.

s/Robert H. Cleland  
ROBERT H. CLELAND  
UNITED STATES DISTRICT JUDGE

Dated: November 27, 2007

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, November 27, 2007, by electronic and/or ordinary mail.

s/Lisa G. Wagner  
Case Manager and Deputy Clerk  
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